

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEMETRIUS CONWELL,

Petitioner,

v.

JEANNE WOODFORD, et al.,

Respondents

No. C 05-2930 MMC (PR)

**ORDER AFFORDING PETITIONER
LEAVE TO FILE REQUEST FOR
ISSUANCE OF CERTIFICATE OF
APPEALABILITY**

On September 27, 2007, the Clerk entered judgment on the Court's September 25, 2007 order denying petitioner's petition for a writ of habeas corpus. On September 28, 2007, petitioner filed a notice of appeal.

An appeal from an order denying a petition for a writ of habeas corpus "may not be taken" unless the Court of Appeal or the district court issues a "certificate of appealability." See 28 U.S.C. § 2253(c). "If an applicant [for a writ of habeas corpus] files a notice of appeal, the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue." See Fed. R. App. Proc. 22(b)(1). A district court shall grant a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2). An applicant makes such a showing by "demonstrat[ing] that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." See Miller-El v.

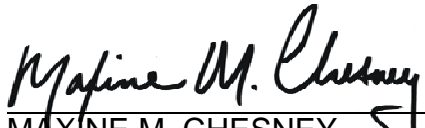
1 Cockrell, 537 U.S. 322, 338 (2003) (internal quotation and citation omitted).

2 Here, petitioner has not requested issuance of a certificate of appealability, either
3 within his notice of appeal or otherwise.

4 Accordingly, the Court hereby affords petitioner leave to file, no later than November
5 2, 2007, a request for issuance of a certificate of appealability. In any such request,
6 petitioner shall identify the specific issue or issues for which he seeks a certificate of
7 appealability, and state why, as to each such issue, a certificate of appealability is
8 appropriate. See 28 U.S.C. § 2253(b)(3) (providing certificate of appealability “shall
9 indicate the specific issue or issues” as to which petitioner has made the requisite
10 showing).

11 **IT IS SO ORDERED.**

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13 Dated: October 3, 2007

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15 MAXINE M. CHESNEY
16 United States District Judge
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